WEST VIRGINIA CODE: §17b-4-3

§17B-4-3. Driving while license suspended or revoked; driving while license revoked for driving under the influence of alcohol, controlled substances or drugs, or while having alcoholic concentration in the blood of eight hundredths of one percent or more, by weight, or for refusing to take secondary chemical test of blood alcohol contents.

(a) Except as otherwise provided in subsection (b) or (d) of this section, any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully suspended or revoked by this state or any other jurisdiction is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500; for the third or any subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than ninety days and shall be fined not less than $150 nor more than $500.

(b) Any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully revoked for driving under the influence of alcohol, controlled substances or other drugs, or any combination thereof, or for driving while having an alcoholic concentration in his or her blood of eight hundredths of one percent or more, by weight, or for refusing to take a secondary chemical test of blood alcohol content, is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than six months and shall be fined not less than $100 nor more than $500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than six months nor more than one year and shall be fined not less than $1,000 nor more than $3,000; for the third or any subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than three years and, in addition to the mandatory prison sentence, shall be fined not less than $3,000 nor more than $5,000.

(c) Upon receiving a record of the first or subsequent conviction of any person under subsection (b) of this section upon a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of six months which may be served concurrently with any other suspension or revocation. Upon receiving a record of the second or subsequent conviction of any person under subsection (a) of this section upon a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of ninety days which may be served concurrently with any other suspension or revocation.

(d) Any person who drives a motor vehicle on any public highway of this state at a time when

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his or her privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours or shall be fined not less than $50 nor more than $500, or both; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than six months and shall be fined not less than $100 nor more than $500; for the third or any subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than three years and fined not less than $1,000 nor more than $5,000.

Upon receiving a record of a first or subsequent conviction under this subsection for a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of six months which may be served concurrently with any other suspension or revocation.

(e) An order for home detention by the court pursuant to the provisions of article eleven-b, chapter sixty-two of this code may be used as an alternative sentence to any period of incarceration required by this section.

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